

## Remarks

Upon entry of the foregoing Amendment, claims 1-10 and 46 are pending in the present application. Claim 1 has been amended. No claims have been cancelled. Claim 46 is newly added. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is respectfully requested.

### **Finality of the Office Action**

The finality of the present Office Action is improper because the Examiner has introduced a new ground of rejection, which was neither necessitated by an Amendment of the claims, nor based on information submitted in an Information Disclosure Statement. See MPEP § 706.07(a).

In the Office Action, the Examiner has introduced a new rejection of claims 1-10 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner did not present a written description rejection in the Non-Final Office Action mailed December 19, 2005. Rather, in the Non-Final Office Action, the Examiner rejected claims 1-10 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Although the enablement requirement and the written description requirement are both based upon § 112, first paragraph, they are separate requirements presenting distinct sets of issues. See MPEP § 2161 ("The written description requirement is separate and distinct from the enablement requirement.").

Accordingly, the written description introduced in the present Office Action is a new ground of rejection, and was not necessitated by an Amendment or based on information contained in an Information Disclosure Statement. Therefore, Applicants request the Examiner withdraw the finality of the Office Action.

### **Rejections Under 35 U.S.C. § 112, First Paragraph**

The Examiner has rejected claims 1-10 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Office Action at 5-6. Applicants disagree with the propriety of this rejection because the Specification sufficiently

describes the claimed invention in a way as to reasonably convey possession of the claimed invention to a person having ordinary skill in the art. Nonetheless, solely in an effort to expedite prosecution, claim 1 has been amended to further clarify the claimed invention.

For example, claim 1 has been amended to recite “each turnstile logically connected to one of said plurality of participant managers in said hierarchy based on an association between the turnstile and one or more characteristics of the network communication system.” The Specification describes this feature at least at pg. 38, lines 6-13 (e.g., “turnstile 230 is pre-assigned one or more address(s) of the corresponding participant manager 130 based on a variety of criteria such as point of entry to the network, geographic location, network congestion, and network performance”).

Therefore, the Specification contains sufficient written description of the claimed invention. For at least this reason, Applicants request the Examiner withdraw this rejection of the claims.

#### **Rejections Under 35 U.S.C. § 102**

##### **International Publication No. WO 01/22725 to Clark et al.**

The Examiner has rejected claims 1 and 4-5 under § 102(a) as allegedly being anticipated by International Publication No. WO 01/22725 to Clark et al. (“Clark”). Office Action at 6-8. This rejection is improper and should be withdrawn because Clark does not disclose every feature of the claimed invention.

Clark fails to disclose at least the feature of “a plurality of participant managers . . . logically connected amongst themselves and to said director thereby forming a hierarchy, the director forming a root of the hierarchy, the participant managers forming branches of the hierarchy,” as recited in, for example, claim 1. The Examiner alleges that the interface server and mapping servers of Clark teach the claimed “director” and “participant managers,” respectively. Applicants disagree with the Examiner’s assessment.

Although Clark indicates that the mapping servers may be organized hierarchically, Clark does not disclose the interface server being part of the hierarchy of mapping servers. See Clark at 30 (“if the mapping server . . . does not itself know the location of an item of content within its own region, it may delegate the request to a mapping server at a higher

level). Clark discloses the hierarchical arrangement as exclusive to the mapping servers, where the interface server is not a root of the hierarchy. By contrast, claim 1 recites, among other things, "the director forming a root of the hierarchy [and] the participant managers forming branches of the hierarchy."

For at least the foregoing reasons, Clark fails to disclose every feature of claim 1. Accordingly, the rejection is improper and must be withdrawn. Claims 4 and 5 depend from and add features to claim 1. Thus, the rejections of these claims are likewise improper and must be withdrawn for at least the same reasons.

**U.S. Patent Application Pub. No. 2001/0009014 to Savage, III et al.**

The Examiner has rejected claims 1-5 and 8-10 under § 102(e) as allegedly being anticipated by Savage, III, et al. (US 2001/0009014) ("Savage"). Office Action at 8-10. This rejection is improper and should be withdrawn because Savage does not disclose every feature of the claimed invention.

Savage fails to disclose at least the feature of "a plurality of participant managers . . . logically connected amongst themselves and to said director thereby forming a hierarchy, the director forming a root of the hierarchy, the participant managers forming branches of the hierarchy," as recited in, for example, claim 1. The Examiner alleges that Savage discloses a hierarchy by the arrangement of media servers being accessed via a dispatch server. Office Action at 8. Applicants disagree with the Examiner's assessment.

For example, as shown in Fig. 1, Savage fails to disclose the media servers being "logically connected amongst themselves . . . thereby forming a hierarchy." In contrast, the media servers of Savage exist independently of one other, and no logical, physical, or other connection between media servers is disclosed therein. Therefore, Savage fails to disclose a hierarchical arrangement with "the director forming a root of the hierarchy, the participant managers forming branches of the hierarchy, and the participants forming leaves of the hierarchy," as recited in claim 1, for example.

Furthermore, the manner by which Savage discloses the dispatch server managing communication between clients and media servers is incompatible with a hierarchical arrangement. Savage discloses the dispatch server maintaining a list of all active media servers, and dispatching a client to a media server based on a polling of all such

active media servers. Savage at paragraphs 0043, 0051. As such, when a media server goes down or fails, the dispatch server simply removes the downed server from the list of active media servers (“the dispatch server does nothing out of the ordinary when it determines that a media server is going off line except make the appropriate alteration to its slave list.”) This disclosure makes Savage is inconsistent with a hierarchical arrangement. Therefore, for at least this reason, Savage fails to disclose a hierarchical arrangement with “the director forming a root of the hierarchy, the participant managers forming branches of the hierarchy, and the participants forming leaves of the hierarchy,” as recited in claim 1, for example.

For at least the foregoing reasons, Savage fails to disclose every feature of claim 1. Accordingly, the rejection is improper and must be withdrawn. Claims 2-5 and 8-10 depend from and add features to claim 1. Thus, the rejections of these claims are likewise improper and must be withdrawn for at least the same reasons.

#### **New Claim**

Claim 46, which is newly added, depends from and adds features to claim 1. Therefore, Applicants believe claim 46 to be allowable for at least the same reasons as discussed above for claim 1, as well as for the further features included therein.

## Conclusion

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

By:



S. Jafar Ali

Registration No. 58,780

**Customer No. 00909**

PILLSBURY WINTHROP SHAW PITTMAN LLP  
P.O. Box 10500  
McLean, Virginia 22102  
Main: 703-770-7900  
Fax: 703-770-7901